

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CHARLES L. JONES,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 4:09CV1656 HEA
	)	
MICHAEL BOWERSOX,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before the remand from the Eighth Circuit Court of Appeals for consideration in light of *Tiedeman v. Benson*, 122 F.3d 518 (8th Cir. 1997).

In its Opinion, Memorandum and Order of March 29, 2001<sup>1</sup> the Court inadvertently failed to address whether a certificate of appealability should issue.

The federal statute governing certificates of appealability provides that “[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that “issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Based on the record, and the law as discussed in Judge Noce’s Report and Recommendation, the Court finds that Petitioner has not

made a substantial showing of the denial of a constitutional right.

Accordingly,

**IT IS HEREBY ORDERED** that a certificate of appealability will not issue in this matter.

Dated this 26th day of April, 2011.

A handwritten signature in black ink, reading "Henry Edward Autrey", is positioned above a horizontal line.

HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE